IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 3RD OCTOBER 2007 / 11TH ASWINA 1929

WP(C).No. 28489 of 2007(N)

PETITIONER:

JEESH FRANCIS, S/O.FRANCIS, AGED 25,
RESIDING AT POLLAYIL HOUSE, VENGOLAKKARA,
ALAPPRA P.O., PIN - 683 553.

BY ADV. SRI.K.MOHAN
SRI.S.SOMAN

RESPONDENT:

THE COMMERCIAL TAX OFFICER,
KOTHAMANGALAM.

BY GOVERNMENT PLEADER SRI.PRADEEP K.P.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.
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W.P.(C) NO. 28489 OF 2007
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Dated this the 3rd day of October, 2007

J U D G M E N T

The prayer in this writ petition is to quash Ext.P3 and to direct the respondents not to take any adverse action against the business of the petitioner for non compliance with Ext.P3. Initially security in terms of Section 17 for Rs.80,000/- has been paid and now by Ext.P3, he has been directed to furnish additional security of Rs.10,00,000/-(Rupees ten lakhs). It is challenging this order, petitioner has filed this writ petition.

2. Learned Government Pleader on instruction submits that initially the turnover of the petitioner was low and it is on that assumption security for Rs.80,000/- was demanded and furnished by the petitioner. Thereafter, there was considerable increase in the turnover of the petitioner and for one month itself there was turnover of about Rs.14,00,000/-. According to the learned Government Pleader, such business has been transacted on the basis of payment of 3% towards the CST and that if C

form is not furnished, the petitioner will be liable for tax at the rate of 10%. It is to take care of such a situation that additional security has been demanded.

3. The learned counsel for the writ petitioner on the other hand would submit that the business has been carried on paying advance tax and therefore such a contingency, as apprehended by the respondents may not arise.

4. Irrespective of the contentions of the petitioner, the question that is to be considered is whether in terms of the Kerala Value Added Tax Act, respondent can ask for additional security. Section 17 provides that for furnishing of security, the Proviso to Section 17(2) entitles the officer to demand additional security in case if the circumstances warrant the same. Therefore the competence of the officer to demand additional security cannot be doubted. If that be so, in view of the sudden increase in the turn over of the petitioner, the officer has demanded additional security, such demand cannot be faulted.

Therefore, I do not find any reason to interfere with Ext.P3 and the writ petition fails and is dismissed.

ANTONY DOMINIC, JUDGE.

Rp